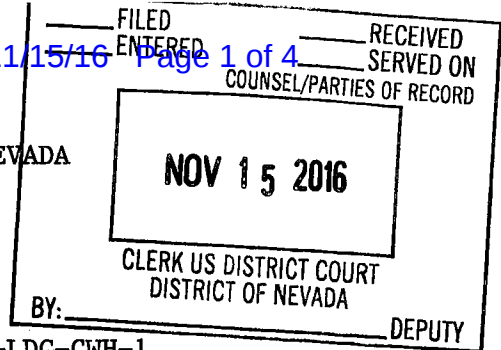


UNITED STATES DISTRICT COURT OF NEVADA

UNITED STATES OF AMERICA)	
Plaintiff)	D.C. No.
vs.)	2:11-cr-00217-LDG-CWH-1
NICHOLAS LINDSEY)	District of Nevada,
Defendent)	Las Vegas
_____)	



MOTION TO UNSEAL TRANSCRIPTS AND LETTER

Comes now, Nicholas Lindsey (hereinafter "Lindsey) Sui Juris², hereby moves this Court for the third time to unseal transcripts and a letter that was submitted to this Court on April 1st, 2013.

On June 2nd, 2015 through Lindsey's counsel William Gamage filed a brief with the 9th Circuit Court of Appeals. In this brief Lindsey's counsel addressed the District Court's failure to adhere to its duty to make a complete transcript of the trial, addressing multiple sidebar conferences which went unrecorded violating 28 U.S.C. § 753(b), of the Court Reporters Act. This act requires that the court reporters attend "[e]ach session of the court" and record "verbatim all the proceedings in criminal cases heard in open court. This Act guarantees criminal defendants "a right to a record on appeal which includes a complete transcript of the proceedings at trial." Wilson, 16 F.3d at 1031 (quoting Carrillo, 902 F.2d at 1409).

On August 18, 2015, the government answered Lindsey's opening brief claiming Lindsey suffered no prejudice from this failure, then magically produced transcripts for one sidebar conference that took place April 3rd, 2013, Day 3 of trial, claiming it was ordered to be sealed. The sealing of this transcript is a mystery as it is not reflected anywhere in the court minutes. The only hearing that has been order to be sealed per Court minutes is a hearing which

Sui Juris²: Of his own right; possessing full social and civil rights; not under any legal disability, or the power of another, or guardianship. Having capacity to manage one's own affairs; not under legal disability to act for one's self. [Black's Law Dictionary, Sixth edition, p. 1434]

took place on April 1st, 2013 at 9:10-9:18 am; see District court DKT 85. This leaves 2 additional unrecorded sidebar conferences.

On June 23rd, 2016 Lindsey filed a motion on his own behalf with the District Court specifically addressing the sealed transcripts noted in Court minutes for April 1st, 2013, see District Court DKT 187. Lindsey has requested the Court to release these transcripts and the letter is was addressing in order to file his 2255 appeal.

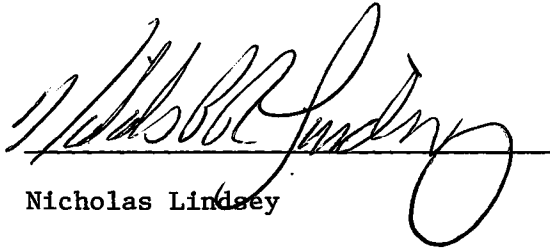
Lindsey now, for the third time requests this Court unseal and release these requested transcripts and the letter refferenced. Lindsey claims this letter and the transcripts addressing this letter will prove without question the prejudice and the ineffectiveness of his trial counsel.

The Supreme Court has explained, "when as here, new counsel, represents the indigent on appeal, how can he faithfully discharge the obligation which the court has placed on him unless he can read the entire transcript? His duty may possibly not be discharged if he is allowed less than that." *Hardy v United States*, 375, U.S. 277, 279-80, 84 S.Ct. 424, 426-27, 11 L.Ed 2d 331 (1964). To that end, the Court Reporter Act requires that a reporter "shall...verbatim by shorthand, mechanical means, electronic sound recording, or nay other method...(1) all proceedings in criminal cases had in open court" 28 U.S.C. § 753(b). "[I]f the defendant is represented on appeal by an attorney who did not participate in the trail, a new trail is necessary if there is a subastantial and significant omission from the trail transcript." *United States v Preciado-Cordobas*, 981 F.2d 1206, 1212 (11th Cir 1993).

The continual refusal by this Court to unseal and release the requested transcritps and letter can only be to conceal this Courts prejudice and failure to protect Lindsey 6th Amendments rights to effective trial counsel or its failure to adhere to its duty to make a complete record, of which either should result in a new trial.

Lindsey hereby requests for the last time for this Court to correct this issue and unseal and make available the transcripts and letter Lindsey has requested.

I hereby certify that on the 20th day of October, 2016, I served a true and correct copy of the above foregoing Motion to unseal and release, to the United States District Court of Nevada, Las Vegas, and the United States Attorney's office located at 333 Las Vegas Blvd S. Ste. 5000, Las Vegas NV 89101, through the U.S. Postal service via certified mail.

A handwritten signature in black ink, appearing to read "Nicholas Lindsey", is written over a horizontal line. The signature is stylized with large, flowing loops.

Nicholas Lindsey

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*Clerk of the Court
333 S. Las Vegas Blvd
Las Vegas, NV 89101*

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